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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,876	04/14/2004	Bernhard Beer	18584-0014	6181
29052 7590 04/02/2007 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			EXAMINER FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/823,876

Applicant(s)

BEER ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8,10-12,14-16,18,19,21,22,25,26,28,30,31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8,10,12,14-16,18,19,21,22,25,26,28,30,31 and 33 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 4, 12, 19 and 25 are objected to because of the following informalities:

Claim 1 (line 7) recites "connecting bridges are made of metal, steel, cast metal... or cast magnesium". Such listing of materials presents both the broad limitation of "metal" and the narrow limitation of "steel... cast magnesium". The choice of material must be only one of the listed materials since the listing of possible materials is presented in alternative format. Accordingly, the claim should recite --connecting bridges are made of steel... or cast magnesium--.

Claim 4 (line 2) recites "bridges are made of metal or steel". It should recite --bridges made of steel--.

Claim 12 (line 8) recites "connecting bridges are made of metal, steel, cast metal... or cast magnesium". Such listing of materials presents both the broad limitation of "metal" and the narrow limitation of "steel... cast magnesium". The choice of material must be only one of the listed materials since the listing of possible materials is presented in alternative format. Accordingly, the claim should recite --connecting bridges are made of steel... or cast magnesium--.

Claim 19 (line 2) recites "form of a metal sheet or sheet steel". It should recite --form of sheet steel--.

Claim 25 (line 2) recites "form of". It should recite --form of a--.

Claim 25 (line 13) recites "wherein the bushings, fastening elements and connecting bridges". It should recite --wherein the bushings and connecting bridges--.

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Claim 25 (line 14) recites "connecting bridges are made of metal, steel, cast metal... or cast magnesium". Such listing of materials presents both the broad limitation of "metal" and the narrow limitation of "steel... cast magnesium". The choice of material must be only one of the listed materials since the listing of possible materials is presented in alternative format. Accordingly, the claim should recite --connecting bridges are made of steel... or cast magnesium--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5, 8, 12, 14-16, 18, 19, 21, 22, 24-26, 28, 30, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Haughton (US 1,597,463).

As to claim 1, Haughton discloses a fastening element capable of use with plastic containers, the fastening element comprising a plurality of first bushings **12,20**, each having a longitudinal axis, interconnected by connecting bridges **13,18**, the connecting bridges each defining a rigid plane that is essentially parallel to the longitudinal axes of the first bushings, wherein the bushings are directly longitudinally connected to the parallel rigid plane of the connecting bridges and wherein the bushings and connecting

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bridges are made of steel, cast iron, cast aluminum or cast magnesium (Figures 2, 3 and 5).

As to claim 2, Haughton discloses a fastening element wherein the bushings **12,20** are made of the same material as the connecting bridges **13,18** connecting the bushings (Figure 3).

As to claim 4, Haughton discloses a fastening element wherein the first bushings **12,20** and the connecting bridges **13,18** are made of metal, and the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding **16** (Figure 3).

As to claim 5, Haughton discloses a fastening element wherein the connecting bridges **13,18** are formed as a metal sheet (Figure 3).

As to claim 8, Haughton discloses a fastening element wherein the metal sheet **13,18** is beaded (beads defined by welds **16**; Figure 3).

As to claim 12, Haughton discloses a fastening system capable of use with liquid-proof flanging or attachment of plastic containers for liquids, the fastening system comprising a fastening element having a plurality of first bushings **12,20** each having a longitudinal axis, interconnected by connecting bridges **13,18** each defining a rigid plane that is parallel to the longitudinal axes of the first bushings, and a flange **19**, wherein the bushings are directly longitudinally connected to the parallel rigid plane of the connecting bridges and wherein the bushings and connecting bridges are made of steel, cast iron, cast aluminum or cast magnesium (Figures 2, 3 and 5).

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As to claim 13, Haughton discloses a fastening system wherein the flange **19** is capable of being arranged along at least a portion of the periphery of an opening of the plastic container (Figure 5).

As to claim 14, Haughton discloses a fastening system wherein the flange **19** has recesses extending through the thickness of the flange to accommodate (align with) the first bushings **20** of the fastening element (Figure 5).

As to claim 15, Haughton discloses a fastening system wherein following attachment of the fastening element to the plastic container, the connecting bridge **18** of the fastening element makes accurately fitting and positive contact at the lower edge of the flange **19** (Figure 5).

As to claim 16, Haughton discloses a fastening system wherein the bushings **18** are made of the same material as the connecting bridges **20** connecting the bushings (Figure 5).

As to claim 18, Haughton discloses a fastening system wherein the first bushings **20** and the connecting bridges **18** are made of metal, and that the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding **16** (Figure 3).

As to claim 19, Haughton discloses a fastening system wherein the connecting bridges **18** are in the form of a metal sheet (Figure 5).

As to claim 21, Haughton discloses a fastening system wherein the width of the metal sheet **18** is essentially parallel to the longitudinal axes of the first bushings **20** (Figure 3).

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As to claim 22, Haughton discloses a fastening system wherein the metal sheet **13,18** is beaded (beads defined by welds **16**; Figure 3).

As to claim 24, Haughton discloses a fastening system capable of use with an engine oil pan or a transmission oil pan (Figure 5).

As to claim 25, Haughton discloses a fastening element capable of use with liquid-proof fastening of plastic containers for liquids to other component parts, the fastening element being present in the form of a connecting bridge **13,18** to receive and arrange a plurality of first bushings **12,20**, the fastening element comprising bushing-receiving elements (weld beads **16**; Figure 3) each having a longitudinal axis allowing insertion of bushings, the connecting bridge defining a series of rigid planes between the bushing-receiving elements that are essentially parallel to the longitudinal axis of the bushing-receiving elements, the fastening element being adapted so as to accurately fit and positively contact the lower edge of a flange **19** of an opening of a container **17,18** after attachment, the fastening element allowing insertion of bushings into bushing-receiving elements of the fastening element and thereafter into bushing-receiving elements **63** of the flange, wherein the bushing receiving elements are directly longitudinally connected to the parallel rigid plane of the connecting bridges and wherein the bushings and connecting bridges are made of steel, cast iron, cast aluminum or cast magnesium (Figures 2, 3 and 5).

As to claim 26, Haughton discloses a fastening element wherein the bushing-receiving elements (weld beads **16**) of the fastening element are through-holes (Figure 3).

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As to claim 28, Haughton discloses a fastening element wherein the fastening element is in the form of a metal sheet **13,18** (Figures 3 and 5).

As to claim 30, Haughton discloses a fastening element wherein the metal sheet **13,18** defines a plane essentially parallel to the longitudinal axes of the first bushings **12,20** (Figures 3 and 5).

As to claim 31, Haughton discloses a fastening element wherein the metal sheet **13,18** is beaded (beads defined by welds **16**; Figure 3).

As to claim 33, Haughton discloses a fastening system comprising a fastening element and bushings **12,20** having a widened portion (defined by the "widening" round cross-sectional shape of bushings **12**; Figure 3) on the outside thereof, the bushings allowing accurate fitting and positive insertion thereof into the bushing-receiving elements (weld beads **16**) of the fastening element, and the widened portion of the bushings preventing slipping of the bushings through the bushing-receiving elements of the fastening element (Figure 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haughton in view of Lopez-Crevillen et al. (US 4,394,853).

As to claim 10, Haughton discloses a container **17,18** capable of use with liquids comprising an opening, a flange **19** being formed along at least a portion of the periphery of the opening, the flange having recesses extending through the thickness of the flange to accommodate the first bushings **20** of the fastening element, wherein the upper edge of the connecting bridges **18** of the fastening element makes accurate fitting and positive contact at the lower edge of the flange following attachment of the fastening element to the container (Figures 5 and 6).

Haughton fails to disclose a plastic container.

Lopez-Crevillen et al. teach a container comprising a plastic seal **42** between flanged metal members **31,12**; such plastic material seal absorbing vibration between the flanges, thus providing for proper sealing between the two members (Figure 2, 3 and 5, column 2 lines 44-50). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a container as disclosed by Haughton to have a plastic material seal as taught by Lopez-Crevillen et al. in order to provide for proper sealing between members.

As to claim 11, Haughton fails to disclose a container wherein the container is an engine oil pan or a transmission oil pan.

Lopez-Crevillen et al. teach the use of a fastening element similar to the fastening element disclosed by Haughton for joining together elements of an engine oil pan **31,12** (Figure 2 of Lopez-Crevillen et al.) similar in structure to the container **17,18** (Figure 6 of Haughton) disclosed by Haughton. It would have been obvious to use a fastening element as disclosed by Haughton for joining together elements of an engine

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oil pan as taught by Lopez-Crevillen et al. as the fastening elements are structural equivalents within the art.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 12 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The newly added limitations of "wherein the bushings are directly longitudinally connected to said parallel rigid plane of the connecting bridges" in claims 1, 12 and 25 necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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